

Applicants: Shoji Miyazaki et al.  
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REMARKS

Claims 45-65 are pending in the subject application. By this Amendment, Claim 45 has been amended. Applicants maintain that the amendments do not raise an issue of new matter. Support for amendment to Claim 45 can be found in the application at least on page 13, second to last paragraph, and page 44, top paragraph. Accordingly, entry of the amendment is respectfully requested.

Obviousness-type Double Patenting Rejections based on U.S. Patent 6,875,327

Obviousness-type Double Patenting Rejections based on co-pending U.S. Patent Application No. 10/809,240

Applicants previously submitted Terminal Disclaimers in compliance with 37 C.F.R. §1.321(c) in order to remove the double patenting rejections over U.S. Patent No. 6,875,327 and over co-pending U.S. Patent Application 10/809,240. The Terminal Disclaimers were signed by attorney Craig J. Arnold, Registration No. 34,287. In the current Office Action, the Examiner indicated that the signing attorney is not of record in this file. In reply, applicants submit copies of Power of Attorney documents (4 pages) previously submitted in parent U.S. Patent Application No. 09/889,243, in which Craig J. Arnold is established as an attorney of record. Accordingly, reconsideration and withdrawal of these rejections are respectfully requested.

Rejections under 35 U.S.C. §102(e)

Claims 45, 53-55 and 62-65 are rejected under 35 U.S.C. §102(e) as being anticipated by Winarta et al. (US Patent No. 6,287,451) ("Winarta").

Rejections under 35 U.S.C. §103(a)

Claims 46, 47, 49, and 51 are rejected as being unpatentable over Winarta in view of Ikeda et al. (U.S. Patent No. 5,582,697).

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Claim 50 is rejected as being unpatentable over Winarta in view of Kawaguri et al. (U.S. Patent No. 5,171,689).

Claims 56-60 are rejected as being unpatentable over Winarta in view of Kawanaka (U.S. Patent No. 6,599,406).

Claim 61 is rejected as being unpatentable over Winarta in view of Kawanaka and further in view of Fujiwara et al. (U.S. Patent No. 6,004,441).

Applicants respectfully traverse these rejections.

In the present invention, while the first slits 23a and 23b divide the electroconductive layer 22 to form the electrodes, the second slits 24a and 24b that are provided to restrict the position and area on the electrodes where the reagent is applied have no relation to formation of the electrodes. Thus, the second slits 24a and 24b of the present invention are different from the electrode areas W1, R and W2 which include the three cutouts 32, 34 and 36 formed on the first layer 30 in the Winarta reference. Accordingly, applicants maintain that the cited references do not anticipate or render obvious the claimed invention, and reconsideration and withdrawal of these rejections are respectfully requested.

#### Supplemental Information Disclosure Statement

This Supplemental Information Disclosure Statement (SIDS) is being submitted to supplement the Information Disclosure Statements (IDS) filed on February 2, 2009, October 14, 2008, August 15, 2008, April 16, 2007 and March 25, 2004 in connection with the subject application.

In accordance with the duty of disclosure under 37 C.F.R. §1.56, applicants would like to direct the Examiner's attention to the references that are listed on the attached forms PTO/SB/08A-B (2 pages). Copies of the Foreign Patent Document and of the Non

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U.S. Patent Literature Document are attached hereto. All but two of these references were listed in a Supplementary European Search Report issued on April 23, 2009 in connection with patent family member European Patent Application No. 00974977.1.

New U.S. Patent Family Member

Applicants would also like to bring the Examiner's attention to a continuation of copending application U.S. Patent Application No. 10/809,240, which was filed on February 5, 2009 and assigned U.S. Patent Application No. 13/322,684. The application was published as U.S. Patent Application Publication No. US 2009/0152111 A1 on June 18, 2009.

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CONCLUSIONS

In view of the amendments and remarks made hereinabove, reconsideration and withdrawal of the rejections in the May 6, 2009 Office Action and passage of the pending claims to allowance are respectfully requested. If there is any minor matter preventing the allowance of the subject application, the Examiner is requested to telephone the undersigned attorney.

A check for \$810.00 is enclosed for the fee for filing a Request for Continued Examination. No other fee is deemed necessary in connection with the submission of this reply. However, if an additional fee is required in connection with this submission or to maintain the pendency of the subject application, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 01-1785. Overpayments may be credited to Deposit Account No. 01-1785.

Respectfully submitted,

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Dated: July 6, 2009  
New York, New York

By   
Alan D. Miller, Reg. No. 42,889